

**SUPREME COURT MINUTES
THURSDAY, NOVEMBER 4, 2004
SACRAMENTO, CALIFORNIA**

The Supreme Court of California reconvened in the courtroom in the Stanley Mosk Library and Courts Building, Sacramento, California on Thursday, November 4, 2004, at 9:00 a.m.

Present: Chief Justice Ronald M. George, presiding, and Associate Justices Kennard, Baxter, Werdegarr, Chin, Brown, and Moreno.

Officers present: Frederick K. Ohlrich, Clerk; and Gail Gray, Calendar Coordinator.

S111309 The People, Plaintiff and Respondent

v.

John Paul Betts, Defendant and Appellant

Cause called. Waldemar D. Halka DeSalava argued for Appellant.

Steven T. Oetting, Office of the Attorney General, argued for

Respondent.

Mr. DeSalava replied.

Cause submitted.

S111029 In re John E. Dannenberg

on

Habeas Corpus

Cause called. Susan Duncan Lee, Office of the Attorney General, argued for Appellant.

Kathleen Kahn argued for Respondent and Petitioner.

Ms. Lee replied.

Cause submitted.

S108353 The People, Plaintiff and Respondent

v.

Evert Keith Howard, Defendant and Appellant

Cause called. Madeline McDowell argued for Appellant.

Sharon E. Loughner argued for Respondent.

Ms. McDowell replied.

Cause submitted.

Court recessed until 1:30 p.m. this date.

Court reconvened pursuant to recess.

Members of the Court and Officers present as first shown.

S119869 American Financial Services Association, Plaintiff and Appellant
v.
City of Oakland, Defendant and Appellant
Cause called. Mark Joseph Kenney argued for Plaintiff and Appellant.
John A. Russo opened argument for Defendant and Appellant.
Steven N. Williams continued argument for Defendant and Appellant.
Mr. Kenney replied.
Cause submitted.

S109746 Michael Lehman Burris, Petitioner
v.
Orange County Superior Court, Respondent
The People, Real Party in Interest
Cause called. Marlin G. Stapleton opened argument for Petitioner.
Robert M. Dykes continued argument for Petitioner.
Brian Gurwitz, Office of the District Attorney, argued for Real Party in Interest.
Mr. Stapleton replied.
Cause submitted.

S119294 The People, Plaintiff and Respondent
v.
Jesus Lopez, Defendant and Appellant
Cause called. Joseph Shipp argued for Appellant.
Jeffrey B. Kahan, Office of the Attorney General, argued for Respondent.
Mr. Shipp replied.
Cause submitted.

Court adjourned.

S117641

G029525 Fourth Appellate District,
G029607 Division Three

PEOPLE v. BRICENO

Opinion filed - reversed and affirmed in part.

We conclude that the judgment of the Court of Appeal be reversed only insofar as the Court of Appeal reversed the trial court's prior serious felony finding, vacated the sentence, and remanded for resentencing. In all other respects, the judgment is affirmed.

Opinion by Moreno, J.

--- joined by George, C.J., Kennard, Baxter, Werdegar, Chin, Brown, JJ.

S121568

C034110 Third Appellate District

MCCLUNG v. EMPLOYMENT DEVELOPMENT
DEPARTMENT

Opinion filed: Judgment reversed

and remanded to the Court of Appeal for further proceedings.

Majority Opinion by Chin, J.

--- joined by George, C.J., Kennard, Baxter, Werdegar, Brown, J.

Concurring and Dissenting Opinion by Moreno, J.

S128890

G034618 Fourth Appellate District,
Division Three

RICOH ELECTRONICS v. S.C. (HALUCK)

Petition for review and application for stay denied

S115352

MICKLIS ON DISCIPLINE

Probation revoked

Good cause having been shown, it is hereby ordered that probation is revoked and reinstated on the same terms and conditions previously imposed in the above entitled matter except as set forth in the order approving stipulation filed August 24, 2004, regarding **DANIEL ANTON MICKLIS, State Bar No. 158515**. Costs are awarded to the State Bar pursuant to Business & Professions Code section 6086.10 and payable in equal installments for membership years 2005, 2006 and 2007.

S127206

MOLINA ON DISCIPLINE
Recommended discipline imposed

It is ordered that **JUAN A. MOLINA, State Bar No. 177982**, be suspended from the practice of law for one year, that execution of suspension be stayed, and that he be placed on probation for two years on condition that he be actually suspended for 30 days. Respondent is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed June 28, 2004. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar and one-half of said costs must be added to and become part of the membership fees for the years 2005 and 2006. (Bus. & Prof. Code, § 6086.10.)

S127207

LEIGH-TAYLOR ON DISCIPLINE
Recommended discipline imposed: disbarred

It is hereby ordered that **DOUGLAS BOWMAN LEIGH-TAYLOR, State Bar No. 82262**, be disbarred from the practice of law and that his name be stricken from the roll of attorneys. **Douglas Bowman Leigh-Taylor** is also ordered to comply with rule 955 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S127210

LOTTA ON DISCIPLINE
Recommended discipline imposed

It is ordered that **MICHAEL A. LOTTA, State Bar No. 94301**, be suspended from the practice of law for two years and until he has shown proof satisfactory to the State Bar Court of

respondent's rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct, that execution of suspension be stayed, and that he be placed on probation for three years on condition that he be actually suspended for sixty days. Respondent is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed June 10, 2004. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and one-third of said costs must be added to and become part of the membership fees for the years 2005, 2006, and 2007.

S127212

McNEAL ON DISCIPLINE
Recommended discipline imposed

It is ordered that **PATRICK D. McNEAL, State Bar No. 62102**, be actually suspended from the practice of law for 60 days as recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed June 28, 2004. Costs are awarded to the State Bar and one-half of said costs must be added to and become part of the membership fees for the years 2005 and 2006. (Bus. & Prof. Code, § 6086.10.)

S127215

BUCKLEY ON DISCIPLINE
Recommended discipline imposed: disbarred

It is hereby ordered that **BRIAN LANGFORD BUCKLEY, State Bar No. 116705**, be disbarred from the practice of law and that his name be stricken from the roll of attorneys. Respondent is also ordered to comply with rule 955 of the California Rules of Court, and to

perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar. *(See Bus. & Prof. Code, § 6126, subd. (c).)

S127217

BENNETT ON DISCIPLINE

Recommended discipline imposed: disbarred

It is hereby ordered that **BRICE EUGENE BENNETT, State Bar No. 104223**, be disbarred from the practice of law and that his name be stricken from the roll of attorneys. Respondent is also ordered to comply with rule 955 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar. *(See Bus. & Prof. Code, § 6126, subd. (c).)

S127220

DANZIG ON DISCIPLINE

Recommended discipline imposed: disbarred

It is hereby ordered that **JEFFREY LEE DANZIG, State Bar No. 102509**, be disbarred from the practice of law and that his name be stricken from the roll of attorneys. Respondent is also ordered to comply with rule 955 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar. *(See Bus. & Prof. Code, § 6126, subd. (c).)

S127222

AGHA ON DISCIPLINE

Recommended discipline imposed

It is ordered that **MAXWELL CHUCK AGHA, State Bar No. 153625**, be suspended from the practice of law for two years, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including

90 days' actual suspension, recommended by the review department of the State Bar Court in its opinion on review filed on June 16, 2004. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and payable in accordance with Business and Professions Code section 6140.7.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S128814

STRUHL ON RESIGNATION

Resignation accepted with disc. proceeding pending

The voluntary resignation of **MORTON E. STRUHL, State Bar No. 133410**, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.* Costs are awarded to the State Bar.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S128815

STIRLING ON RESIGNATION

Resignation accepted with disc. proceeding pending

The voluntary resignation of **TERRY LEE STIRLING, State Bar No. 208544**, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter

seek reinstatement. It is ordered that he comply with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.* Costs are awarded to the State Bar.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S128816

VELASQUEZ ON RESIGNATION

Resignation accepted with disc. proceeding pending

The voluntary resignation of **RAFAEL ANTONIO VELASQUEZ, State Bar No. 207437**, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.* Costs are awarded to the State Bar.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S128820

CENTOFANTI ON RESIGNATION

Resignation accepted with disc. proceeding pending

The voluntary resignation of **ALFRED P. CENTOFANTI III, State Bar No. 168689**, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.* Costs are awarded to the State Bar.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S128825**MOELLER ON RESIGNATION**

Resignation accepted with disc. proceeding pending

The voluntary resignation of **Paul Hans Moeller, State Bar No. 54155**, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.* Costs are awarded to the State Bar.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S128829**RATHBUN ON RESIGNATION**

Resignation accepted with disc. proceeding pending

The voluntary resignation of **Robert Grant Rathbun, State Bar No. 123901**, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.* Costs are awarded to the State Bar.

*(See Bus. & Prof. Code, § 6126, subd. (c).)